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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,333	03/18/2004	Takeshi Idemura	CANO-1005	7006
37013 7590 02/05/2010 ROSSI, KIMMS & McDOWELL LLP. 20609 Gordon Park Square, Suite 150 Ashburn, VA 20147				
EXAMINER KHAN, USMAN A				
ART UNIT 2622		PAPER NUMBER		
NOTIFICATION DATE 02/05/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail@rkmlegalgroup.com

Office Action Summary

Application No.

10/804,333

Applicant(s)

IDEMURA ET AL.

Examiner

USMAN KHAN

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 18, 23 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 18, 23 and 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/25/2010 has been entered.

2. Applicant's argument filed on 01/25/2010 with respect to claims 113, 18, 23, and 26 - 35 have been considered but are not persuasive. Also, newly added claims 32 - 35 are rejected as discussed below.

Please refer to the following office action, which clearly sets forth the reasons for non-persuasiveness.

Regarding **claims 13, 18, 23, and 26 - 31**, Applicant argues that Swayze fails to disclose providing both the name and the function of each switch. Indeed, Fig. 3 is telling in that it merely shows the function of the selected switch. Accordingly, applicants submit that Swayze would not have taught the claimed display. Note that, for clarity, independent claims 13 and 26 now positively define --concurrently-- displaying both the names and the functions of both switches. Also, applicant argues that the buttons can not be placed anywhere and that argues newly added claims.

However, the examiner kindly notes that:

In figure 3 any one of item 140, 142, and/or 144; and more specifically in column 5 lines 43 *et seq.* Swayze teaches that all keys are not used in each menu hence in a menu that requires more then one key the key functions of a plurality of keys will be shown at a single time. Also, as discussed in the rejection the placement of the buttons in different sections of the camera as evident by the supported KSR rejection made in the office action. Finally, the rejection of the newly added claims are provided below.

Claim Objection

3. **Claims 34 - 35** are objected to because of the following informalities: each of these dependent claims states "the camera" instead of "a camera" since the parent claims from which these claims depend already claim "a camera". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 32 – 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Newly added limitation in the claim 32 – 35 (i.e. "a first face") is not disclosed in the original submission dated 03/18/2004. These claims are subjected to new subject matter rejection. If applicant believes that this limitation is disclosed in the original submission dated 03/18/2004 applicant is asked to kindly specifically point to the specific sections in the original submission and discuss the newly added limitations.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 32 – 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 32 - 35 recites the limitation "the first face". There is insufficient antecedent basis for this limitation in the claim since a first face is not recited in the parent claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 13, 18, and 23, 26 - 35 (as best understood by the examiner in view of the 112 rejection above) are rejected under 35 U.S.C. 103(a) as being unpatentable over Swayze (US Patent NO. 6,519,003).

Regarding **claim 13**, Swayze discloses an operation apparatus (figure 3 item 40) which is used for operating a zoom lens (figure 2 item 42), comprising:

a zooming switch operated to perform a zooming operation of the zoom lens (figure 3 item 14 and column 5 lines 5 *et seq.*);

a first function switch configured to be allocated with one of a plurality of functions selectively, the first function switch being provided on a first surface of the operation apparatus (figure 3 any one of item 140, 142, and/or 144; also, column 5 lines 43 *et seq.*);

a second function switch configured to be allocated with another of the plurality of functions selectively (figure 3 any one of item 140, 142, and/or 144; also, column 5 lines 43 *et seq.*);

an operation switch operated to respectively allocate the one and the other of the plurality of functions to the first function switch and the second function switch for enabling performance of the function allocated to each of the first and second function switches in response to an operation of each of the first and second function switches (figures 2 and 3 item 70); and

a display member which is provided on the first surface and displays a name of each of the first and second function switches and the function allocated to each of the first and second function switches (figure 3 item 146; also, column 5 lines 43 *et seq.*), wherein the zooming switch, the first function switch, the second function switch and the operation switch are mutually separate switches (figure 3 item 14, figure 3 any one of item 140, 142, and/or 144, also, figures 2 and 3 item 70).

However, Swayze fails to teach the second function switch being provided on a second surface of the operation apparatus which is a separate surface from the first surface.

Although, Swayze does not explicitly mention second function switch on a second surface of the apparatus separate from the first surface, Swayze in figures 2 – 3 does teach that switches 140, 142, and 144 are mutually separate switches located in different sections of the camera body. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body since a person of ordinary skill has a good reason to pursue the known options within his or her technical grasp, if this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense and would lead to an improved user experience and interface.

Furthermore, the claim would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body as a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art as evidenced by Swayze (figures 2 – 3 switches 140, 142, and 144) wherein is thought the concept of to place each separate switch in any section of the camera body is well known in the art and would lead to an improved user experience and interface.

Regarding **claim 18**, as mentioned above in the discussion of claim 13 Swayze teaches all of the limitations of the parent claim, additionally Swayze teaches an image-taking system (figures 2 and 3) comprising: the operation apparatus according to claim 13 (please see discussion of claim 13 above); and the zoom lens (figure 2 item 42).

Regarding **claim 23**, as mentioned above in the discussion of claim 13 Swayze teaches all of the limitations of the parent claim, additionally Swayze teaches a camera (figures 2 and 3) comprising: an image-pickup element (figure 2 item 44); the operation apparatus according to claim 13 (please see discussion of claim 13 above); and the zoom lens which forms an image of an object on the image-pickup element (figure 2 items 42 and 44).

Regarding **claim 26**, Swayze discloses an operation apparatus (figure 3 item 40) which is used for operating a zoom lens (figure 2 item 42), comprising:

a zooming switch operated to perform a zooming operation of the zoom lens (figure 3 item 14 and column 5 lines 5 *et seq.*);

a first function switch configured to be allocated with one of a plurality of functions selectively and to be set so as to be allocated with no function, the first function switch being provided on a first surface of the operation apparatus (figure 3 any one of item 140, 142, and/or 144; also, column 5 lines 43 *et seq.*);

a second function switch configured to be allocated with another of the plurality of functions selectively (figure 3 any one of item 140, 142, and/or 144; also, column 5 lines

43 *et seq.*);

an operation switch operated to respectively allocate the one and the other of the plurality of functions to the first function switch and the second function switch for enabling performance of the function allocated to each of the first and second function switches in response to an operation of each of the first and second function switches (figures 2 and 3 item 70), and operated to set at least one of the first and second function switches so as to be allocated with no function (figures 2 and 3 item 70); and

a display member which is provided on the first surface and displays a name of each of the first and second function switches and the function allocated to each of the first and second function switches (figure 3 item 146; also, column 5 lines 43 *et seq.*), wherein the zooming switch, the first function switch, the second function switch and the operation switch are mutually separate switches (figure 3 item 14, figure 3 any one of item 140, 142, and/or 144, also, figures 2 and 3 item 70).

However, Swayze fails to teach the second function switch being provided on a second surface of the operation apparatus which is a separate surface from the first surface.

Although, Swayze does not explicitly mention second function switch on a second surface of the apparatus separate from the first surface, Swayze in figures 2 – 3 does teach that switches 140, 142, and 144 are mutually separate switches located in different sections of the camera body. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body since a person of ordinary skill has a

good reason to pursue the known options within his or her technical grasp, if this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense and would lead to an improved user experience and interface.

Furthermore, the claim would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body as a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art as evidenced by Swayze (figures 2 – 3 switches 140, 142, and 144) wherein is thought the concept of to place each separate switch in any section of the camera body is well known in the art and would lead to an improved user experience and interface.

Regarding **claim 27**, as mentioned above in the discussion of claim 26 Swayze teaches all of the limitations of the parent claim, additionally Swayze teaches a camera (figures 2 and 3) comprising: an image-pickup element (figure 2 item 44); the operation apparatus according to claim 13 (please see discussion of claim 13 above); and the zoom lens which forms an image of an object on the image-pickup element (figure 2 items 42 and 44).

Regarding **claim 28**, as mentioned above in the discussion of claim 13 Swayze teaches all of the limitations of the parent claim.

However, Swayze fails to teach the zooming switch is provided on the second surface.

Although, Swayze does not explicitly mention the zooming switch is provided on the second surface, Swayze in figure 3 item 14 does teach that the zoom switch is a mutually separate switch located in a different section of the camera body from the other switches. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body since a person of ordinary skill has a good reason to pursue the known options within his or her technical grasp, if this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense and would lead to an improved user experience and interface.

Furthermore, the claim would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body as a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art as evidenced by Swayze (figure 3 switch 14) wherein is thought the concept of to place each separate switch in any section of the camera body is well known in the art and would lead to an improved user experience and interface.

Regarding **claim 29**, as mentioned above in the discussion of claim 13 Swayze teaches all of the limitations of the parent claim.

However, Swayze fails to teach the operation switch is provided on the second surface.

Although, Swayze does not explicitly mention the operation switch is provided on the second surface, Swayze in figures 2 - 3 item 70 does teach that the zoom switch is a mutually separate switch located in a different section of the camera body from the other switches. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body since a person of ordinary skill has a good reason to pursue the known options within his or her technical grasp, if this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense and would lead to an improved user experience and interface.

Furthermore, the claim would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body as a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art as evidenced by Swayze (figures 2 - 3 switch 70) wherein is thought the concept of to place each separate switch in any section of the camera body is well known in the art and would lead to an improved user experience and interface.

Regarding **claim 30**, as mentioned above in the discussion of claim 26 Swayze teaches all of the limitations of the parent claim.

However, Swayze fails to teach the zooming switch is provided on the second surface.

Although, Swayze does not explicitly mention the zooming switch is provided on

the second surface, Swayze in figure 3 item 14 does teach that the zoom switch is a mutually separate switch located in a different section of the camera body from the other switches. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body since a person of ordinary skill has a good reason to pursue the known options within his or her technical grasp, if this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense and would lead to an improved user experience and interface.

Furthermore, the claim would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body as a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art as evidenced by Swayze (figure 3 switch 14) wherein is thought the concept of to place each separate switch in any section of the camera body is well known in the art and would lead to an improved user experience and interface.

Regarding **claim 31**, as mentioned above in the discussion of claim 26 Swayze teaches all of the limitations of the parent claim.

However, Swayze fails to teach the operation switch is provided on the second surface.

Although, Swayze does not explicitly mention the operation switch is provided on the second surface, Swayze in figures 2 - 3 item 70 does teach that the zoom switch is

a mutually separate switch located in a different section of the camera body from the other switches. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body since a person of ordinary skill has a good reason to pursue the known options within his or her technical grasp, if this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense and would lead to an improved user experience and interface.

Furthermore, the claim would have been obvious to one having ordinary skill in the art at the time the invention was made to place each separate switch in any section of the camera body as a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art as evidenced by Swayze (figures 2 - 3 switch 70) wherein is thought the concept of to place each separate switch in any section of the camera body is well known in the art and would lead to an improved user experience and interface.

Regarding **claim 32**, as mentioned above in the discussion of claim 13 Swayze teaches all of the limitations of the parent claim, additionally Swayze teaches wherein the first face is disposed on a top face of the operation apparatus (figure 3 item 40' and 60; examiner can broadly consider any surface such as in figure 3 item 40' as the top surface and any face on the same side as item 40' such as item 60 as the first face).

Regarding **claim 33**, as mentioned above in the discussion of claim 26 Swayze

teaches all of the limitations of the parent claim, additionally Swayze teaches wherein the first face is disposed on a top face of the operation apparatus (figure 3 item 40' and 60; examiner can broadly consider any surface such as in figure 3 item 40' as the top surface and any face on the same side as item 40' such as item 60 as the first face).

Regarding **claim 34**, as mentioned above in the discussion of claim 23 Swayze teaches all of the limitations of the parent claim, additionally Swayze teaches wherein the zoom lens (figure 2 item 42) is attachable to a camera (figures 2 and 3) and the first face is disposed in on a side face of the operation apparatus (figure 3 item 40' and 60; examiner can broadly consider any surface such as in figure 3 item 40' as the side surface and any face on the same side as item 40' such as item 60 as the first face).

Regarding **claim 35**, as mentioned above in the discussion of claim 27 Swayze teaches all of the limitations of the parent claim, additionally Swayze teaches wherein the zoom lens (figure 2 item 42) is attachable to a camera (figures 2 and 3) and the first face is disposed in on a side face of the operation apparatus (figure 3 item 40' and 60; examiner can broadly consider any surface such as in figure 3 item 40' as the side surface and any face on the same side as item 40' such as item 60 as the first face).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to USMAN KHAN whose telephone number is (571)270-1131. The examiner can normally be reached on Mon-Fri 6:45-3:15.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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